

CALIFORNIA WATER PLAN UPDATE 2009 REGIONAL TRIBAL WATER PLENARY MEETING #1

Greater Kern, Kings, Tule, and South Central Valley Waters

hosted by Tubatulabals of Kern Valley and North Fork Mono Tribe, March 24, 2009, Temecula

Special Thanks – Tule River Indian Reservation for sponsoring lunch and meeting facility

Pakanapul Language Team – for preparing lunch

MEETING SUMMARY

Table of Contents

| | |
|---|----|
| (1) Welcome, Greetings and Agenda..... | 1 |
| (2) The California Water Plan Update 2009 and Tribal Engagement | 1 |
| (3) Emergency Management & the California Emergency Management Agency.. | 2 |
| (4) Tribal Caucus Discussion on Key Summit Issues | 3 |
| (5) Meeting Evaluation and Next Steps | 9 |
| (6) Attendance | 9 |
| (7) Mind Map of Tribal Water Issues in the Region..... | 10 |

(1) Welcome, Greetings and Agenda

Donna Miranda-Begay, Chairwoman of the Tubatulabals of Kern Valley, opened the meeting with a brief welcome. She introduced Betsey Johnson, Pakanapul Language Program, who gave an opening prayer in their Native language. Donna also recognized the Kern Valley high school students in attendance – Native American Student Association (NASA).

Co-host Ron Goode, Chairman of the North Fork Mono Tribe, offered words of welcome and thanks for coming. He explained that this series of regional meeting and an ongoing series of monthly planning meetings in Sacramento are building toward the statewide California Tribal Water Summit, to be held on August 26-27, 2009, in Sacramento. These meetings are all to hear concerns, issues, and successes about Tribal water, and to generate ideas for vendors, exhibitors, and speakers (Indian or not) for the Summit.

Dorian Fougères, facilitator with the Center for Collaborative Policy, CSUS, reviewed the day's agenda and ground rules.

(2) The California Water Plan Update 2009 and Tribal Engagement

(including Tribal Communication Committee and Communication Plan, Tribal Water Summit Planning Process, and Tribal Water Stories Project)

Kamyar Guivetchi, Manager of Statewide Integrated Water Management for the California Department of Water Resources (DWR), presented an overview of the California Water Plan, including its history and purpose as a long-term strategic blueprint, and the Update 2009 process.

Kamyar noted that Objective 12 of Update 2009 addresses Tribal water and natural resources. The full slides from his presentation can be downloaded here <http://www.waterplan.water.ca.gov/tribal2>

Kamyar also described the content of the Public Review Draft of Update 2009, which has been posted to <http://www.waterplan.water.ca.gov>. Comments are invited through June 5, 2009, and more information on how to submit comments is available on the website.

Barbara Cross, Community and Government Liaison for DWR, described the framework of Tribal government participation in the CWP Update 2009 since inception of the process in early 2007. Tribal participation includes the establishment of a Tribal Communication Committee which in July 2008 submitted a draft Tribal Communication Plan for the CWP Update 2009 process.

This was followed by a Question and Answer period which touched on energy issues, climate change, other state planning initiatives, the absence of Tribal beneficiaries to the Central Valley Project, the relationship of Tribes to state and local water jurisdictions, and the current California Tribal water rights processes.

Dorian Fougères introduced the topic of planning for the 2009 California Tribal Water Summit. In December 2008 the Tribal Communication Committee transitioned into a Tribal Water Summit Planning Team. All with an interest are encouraged and invited to participate in the monthly planning meetings. Dorian indicated that input from each Regional Tribal meeting will be shared with following meetings. A handout with more detailed information on the Summit planning process can be downloaded at <http://www.waterplan.water.ca.gov/tribal2>

Tubatulabal Tribe members Donna Begay and Betsy Johnson introduced the Tribal Water Stories project. The project aims to document stories about California Native American Tribes' historical and contemporary connections with water. The stories can be in any form – written or video, native language or English, long or short, etc. Betsy read a story about When the Earth Quaked in her native language. Betsy indicated that your language is who you are, and it is very significant to lose your last speaker. A handout with more detailed information on the Tribal Water Stories, including a letter of invitation to all Tribes in California to submit stories, can be downloaded at <http://www.waterplan.water.ca.gov/tribal2>

(3) Emergency Management and the California Emergency Management Agency

Donna Begay presented a video developed by Barbara Aragon about Tribes and disaster management in California. Several people commented about the difference between wildfire behavior before the era of fire suppression, compared to recent highly destructive fires.

Denise Banker (Tribal Advocate, former California Office of Homeland Security, now merged with the new office, California Emergency Management Agency (CalEMA)), briefed the group on various activities underway in the state with Tribes. CalEMA was formed from the

Governor's Office of Homeland Security and Governor's Office of Emergency Services at the start of 2009, and now has responsibility for both areas of activity. The agency has clear linkages to water issues because both flooding and drought issues are emergencies. The agency is currently reorganizing its divisions, so the exact location of Tribal programs is not yet clear.

Among the various coordination efforts that fall under CalEMA, the agency is responsible for coordinating the EMPG and SHSG programs per strict guidance. Few Tribes meet the criteria for direct federal funding, yet HR 1 law that was enacted into law in early 2008, stated that no State can force Tribes to go through Counties to receive Homeland Security funding. OHS created a 1% allotment reserved for Tribes, which for the FY08 cycle, equates to \$246,000 approx for California Federally Recognized Tribes. The State also required that the sub-grantee be representative of all or substantially all of the Tribes. The only association that met this criteria is Inter-Tribal Council of California (ITCC) and those Tribes that participate are by resolution. The intent of this program is to initiate a new program designed to build capacity and establish a governance structure for California Native American Tribes. In addition, to assist Tribes with becoming compliant for future direct funding and to improve their over all emergency management and homeland security planning and preparedness efforts.

Brian Williams, staff for California State Assembly Member Jean Fuller, expressed the Assembly Member's interest in passing a new water bond bill for California. Conservation will be part of the package. Brian also announced the Assembly Member Jean Fuller has been appointed to State Assembly Committee on Water, Parks, and Wildlife.

Participants had several emergency-related concerns, including:

- How Tribes are involved in plans to respond to critical incidents and to provide services, and the need to increase Tribal outreach and training about event response
- The need to have Tribal representation on par with non-Tribal leaders in Incident Command Teams, as a way to link traditional knowledge and land management with resource protection and non-native land management both before and after a crisis
 - It was noted that the Bureau of Land Management and US Forest Service engaged in pre-planning to protect resources
- The need for Tribes to be communicating with each other and looking into providing housing and recover support in the case of an emergency
- The exposure of new archaeological sites after fires, and the need for sustainable funding for the protection of such archaeological sites after a crisis
- It was noted that Memoranda of Understanding do exist between Tribes and the US Forest Service, and involve dialogue and plans about how to deal with the aftermath of fires
- It was noted that training is available for Native American monitors

(4) Tribal Caucus Discussion on Key Summit Issues

Participants spent the rest of the day discussing key regional water issues, as well as strategies and solutions for addressing these issues. To start off this discussion, Dorian shared two "mind maps" with participants that illustrated the range of Tribal water issues identified in the Water

Plan work to date, and the special Tribal session at the 2008 Floodplain Management Association Annual Conference. A mind map of the Kern Valley Tribal Caucus Discussion is attached at the end of this meeting summary.

Donna Miranda-Begay and Ron Goode then each gave brief presentations on critical water issues and partnerships in their areas.

Presentation on Lake Isabella Flooding, Dam Issues, and Protection of Sacred Sites

Donna flagged several issues in her presentation, including:

- FEMA assistance during post-flood recovery, for wells and other infrastructure
- The need to protect sacred sites during dam renovation or construction
- Rural access to drinking water
- The challenge of planning for water across multiple jurisdictions
- Successful partnership with US BIA, US Indian Health Services, and allotment owners to address water and housing needs, and integrated resource management planning
- The water quality threats posted by abandoned mines, and the potential to use geographic information systems technology to map and reduce these
- Support from the US Indian Health Services for Indian Trust Lands

Donna also made several recommendations for addressing Tribal water issues:

- Apply for grant funding
- Partner with non-Tribal agencies – outreach and collaboration foster consultation
- Seek technical training

Presentation on Watershed Restoration and Hydropower Relicensing

Ron flagged several issues and successes in his presentation, including:

- The loss of access to native resource plants – and how this became a leverage point for working with utilities, the US Forest Service, and the Federal Energy Regulatory Committee
- The lack of enforcement of state and federal resource protection laws because of the importance of electricity and dams
- Archaeological documentation and financial compensation as a fallback in the worst case scenario – in this case, protecting the resource was impossible, but at least the sites could be documented and power lines routed around them
- The importance of restoration and fire management in protecting native resources – for example, the test restoration of Jackass Meadow at Florence Lake, including volunteer crews from local schools that helped with trail maintenance and planting
 - Another example was the Adopt-a-Watershed program for Bass Lake/Crane Valley – here a Rural Action Committee and the US Forest Service worked to remove trash, pile slash, remove saplings, and revive deer grass
 - Also, the Sierra Nevada Conservancy had various multiple-year grant programs that supported this work
- For the rare instances where cultural resources will inevitably be destroyed (regardless of whether they are on Tribal lands), there was discussion about the benefits and negatives of surveying and placing a culturally-defined “value” on these resources

Discussion then opened up to the large group. Issues identified by participants included:

1. Connection between State and Federal Water Planning

Participants noted that the connections between state and federal water planning is unclear, and their activities are not coordinated. For example, it was noted that Tribes were supposed to be beneficiaries of the Central Valley Project, but have no contracts for this water. For example, it was noted the San Joaquin River Settlement Act did not involve Tribes, but merely called them after the fact, too.

It was pointed out that that California Indians have three land interests – reservations, rancherias, and public domain allotments – and that a major need exists to coordinate federal and state activities that affect these lands, including water planning. It was emphasized that federal trust lands must be included in regional water planning processes, adjudications, and agreements.

Kamyar noted that this was an important issue for the summit, and that the Water Plan State Agency Steering Committee had talked with the US Environmental Protection Agency, Bureau of Indian Affairs, and Indian Health Services. No formal connections existed, but some communication was done through CALFED and also the California Biodiversity Council, which includes federal agencies. The Steering Committee had also had a special panel with federal agencies that manage lands in California.

Several potential solutions were proposed:

- A clear plan for coordination is developed for the Summit, not just a question about how to do this
- California establish a cabinet-level Office of Indian Affairs to provide coordination
- Establish central Tribal water information offices to increase access to information and raise awareness
- Use existing agency offices to obtain information, e.g., Natural Resources Conservation Service
- Increase inter-Tribal unity and bonding to create a stronger voice in regional and state water policy
- Develop a resource guide for water issues and water-related emergencies

2. Tribal Water Rights Adjudication

Participants noted that currently the burden is on California Native American Tribes to fight multi-million dollar lawsuits to get the same water rights as their neighbors. At the same time, it was noted that federal and state agencies responsible for water rights do not coordinate their activities. It was asked, should Tribes first work with the federal government to obtain their rights, and if so, how would this articulate with State government rights? What do these rights actually permit?

Several potential solutions for establishing Tribal water rights were noted:

- Sue the federal government to uphold their existing acts and agreements, perhaps as a class-action lawsuit
- Identify common interests between Tribal and non-Tribal groups, and mobilize these groups to pressure state and federal governments to resolve outstanding conflicts
- Change the state's equation for avoiding Tribal water rights issues – raise the awareness of state agencies of the short-term and long-term benefits of adjudicating Tribal water rights for water planning and management

- Along the same lines: institute a paradigm shift – encourage the state and federal government to move away from litigation-based processes for adjudicating Tribal water rights, or requiring Tribes to “figure it out amongst yourself and then come talk to us”
- Provide training and increase the financial capacity for Tribes to adjudicate their water rights
- Develop creative ways and partnerships to help Tribes build their capacity for labor-intensive and financially expensive advocacy and litigation
- Use water rights based on the existing federal rights granted to Tribes before these are lost – and document this use
- Lobby for the adjudication of groundwater rights in California
- Improve Tribes’ understanding of what water rights “quantification” entails, and the tools for available doing this
- Write a letter to State Assembly Member Jean Fuller and push for her to continue the legislative dialogue around Tribal water issues, and include reference the 2002 Johannesburg Commitment (signed by the United States to clean drinking water and wastewater facilities as a universal right)

3. Cultural Sensitivity Training

Participants noted that emergency response and water planning and management efforts often did not understand how to interact with or treat Tribes.

A potential solution was noted:

- Cultural sensitivity should be an overarching principle for these efforts

4. Increased Youth Involvement

Several youth from the region attended the meeting and were interested in learning more about water issues. Participant agreed that youth involvement in Tribal water planning activities should be increased and be a standard aspect of these processes.

A potential solution was noted:

- Establish summer youth education programs about the history of water, cultural connections, and water management

5. Abandoned Mine Impacts on Water Quality

As noted in Donna’s presentation, the impact of abandoned mines on water quality was noted as a major concern in the region.

Two potential solutions were proposed:

- implement appropriate reclamation efforts/techniques
- hasten the turnaround time for water quality testing results, and ensure that results are followed-up on

6. Water Allocation between Sectors

Participants noted that there were ongoing efforts to shift water from agriculture to municipal and industrial uses, and that this could also affect Tribes. It was noted that perverse incentives exist to increase rather than reduce and conserve one’s water use – if one can document a high level of water use, it is harder to take away later.

A potential solution was noted:

- Require general plans to have a water element, and thus require proposed development to anticipate and plan for future water needs

7. Marijuana Farm Impacts on Water Quality, Water Supply, and Wildlife

It was noted that illegal marijuana farms had a major negative impact on water quality and also was a major water diversion in some areas. Water quality was impacted by the use of chemicals, fertilizers, and effluents involved in growing the crop, as well as fuels and oils used to power associated generators. Fish and game were also poisoned by these practices.

Two potential solutions were proposed:

- Monitor water at the base of creeks to ascertain whether chemicals are being used upstream (the half-life for many chemicals is 10 days)
- Pressure the California Department of Fish and Game to increase its patrolling activities

8. Illegal Diversions

Participants remarked that illegal diversions involving channeling or blocking flows are found in the region. This impairs water quality by reducing flows, reduces groundwater and lake recharge (and may involve increased groundwater pumping), and also decreases air quality (because of the dried lakebeds created by water drawdown).

A potential solution was noted:

- Pressure the Central and Regional Water Boards to share information regarding water rights and diversions (to better track what's legal and illegal)

9. Flood Planning and Management

It was noted that historically roadways would flood in the winters, creating a public access and public safety concern. It was remarked that this rarely occurred anymore. However, flooding remained a concern, including floodplain restoration and groundwater recharge. Also noted were the flood impacts on lands and roads from the practices of adjacent land owners.

Two potential solutions were proposed:

- Improve mapping of watershed resources – including Tribal lands and floodplains
- Develop and work with the USACE to develop floodplain maps so that Tribes can access funding sources

10. Alternative and Hydropower Energy Generation

It was noted that the demand for alternative “green” energy sources was increasing, and that water provided a major source of energy through hydropower. This in turn could affect water supplies in the region.

A potential solution was noted:

- Promote land stewardship as a way to stay at the forefront or ahead of alternative energy developments

11. Water Infrastructure Improvement and Dam Safety

Participants noted that need to improve existing water infrastructure, including not just drinking water systems but bridges and impoundment structures, to reduce emergency public safety risks. It was also noted that allotment lands often lacked needed water infrastructure.

Several potential solutions were proposed:

- Obtain grants to improve existing wellwater systems
- Develop agreements between Tribes to address the energy needs for water pumping on allotments
- Establish a board to prepare a plan and write a grant to address current and future water needs

12. Public Facility Management and Tourism

Camping and concentrated facilities can potentially impact water quality, partly because of human waste disposal concerns or sedimentation from land use patterns. Discussion involved how to balance the economic benefits of tourism with water concerns.

Several potential solutions was noted:

- Improve Lake Isabella water quality – which would also increase tourism interest
- Support the speedy restoration of Kern Rainbow Trout (currently no non-native species stocking is allowed, reducing tourism interest)
- Establish creek clean-up and rehabilitation efforts
- Dredge existing reservoirs to mitigate eutrophication (the tradeoffs with stirring up old sediments were noted)

13. Access to Native Plants, Foods, Fish, and Water Sources

As mentioned in Ron Goode's presentation, participants remarked that access to native resources and waters had decreased over time. This was partly a property rights issue, and partly a water management issue, but also connected to forest management for many people.

Two potential solutions was noted:

- Educate people regarding the distribution of riparian native plants and their uses, and invasive plant species
- Examine existing fishing acts to help protect water-related resources

14. Forest Management

Participants noted that the way forests were managed, including desired densities and species, affected water flows and volumes and native plant species.

Several potential solutions were proposed:

- Institute regular briefings, information sharing, and partnering with the U.S. Forest Service and other agencies
- Tribes need to take advantage of opportunities to get involved in forest plan revisions (e.g., Sequoia and Sierra National Forests)
- Convene statewide quarterly and as needed meetings of regional USFS Tribal liaisons to discuss forest management and Tribal needs

15. Landless Tribes

It was noted that the federal government will recognize some landless Tribes in the years ahead. The questions were raised, How will these Tribes get water? Where will their development and housing be located? The need to plan for these concerns was emphasized.

16. Lake Isabella – Water Quality and Dam Safety

There was discussion about the poor health of Lake Isabella and need for improve or new dam for this lake. Overall, water level changes could impact protection of existing sacred cultural sites. The U.S. Forest Service and Tubatulabals of Kern Valley Tribe will be working together in addressing the protection of sacred sites.

(5) Meeting Evaluation and Next Steps

Dorian led a brief evaluation of the meeting. Participants expressed their appreciation of the food, meeting preparation, Tribal presentations, and diversity of people attending. Participants recommended having discussion in the morning rather than afternoon; encouraging people to stay all day; staying focus on water issues; identifying and prioritizing major issues for discussion; focusing more on flooding issues; and bringing your own cups for water (instead of having bottled water).

Kamyar reiterated that comments and suggestions for the Water Plan Public Review Draft would be accepted through June 5, 2009.

Dorian explained that the Center for Collaborative Policy, along with DWR, would produce a meeting summary and circulate this to participants. This information would also be shared with the Tribal Water Summit Planning Team, and at subsequent Regional Tribal Water Plenaries. The discussions from the day would be used to frame the issues that should be discussed at the Summit in August.

Ron Goode and Donna Begay thanked people for attending and closed the meeting.

(6) Attendance

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| 1. Jared Aldern, Prescott College | 9. Dirk Charley, USDA Forest Service/ Dunlap Band of Mono Indians |
| 2. Steve Anderson, US Forest Service | 10. Sherry Click, Tubatulabal |
| 3. Elton Baldy, Hoopa Valley Tribe | 11. Geraldine Creech, Tubatulabal |
| 4. Denise Banker, CalEMA | 12. Barbara Cross, DWR |
| 5. Lauren Bauer, Kern County Water Agency | 13. Dee Dominguez, Kltanemuk & Tuolumne Tejon Indians |
| 6. Laura Bustamante, Chumash Native Nation | 14. Bertha Eller, Tubatulabal |
| 7. Melvin Carmen, North Fork Mono Tribe | 15. Dorian Fougères, CCP |
| 8. Shauna Cawelti, Paiute/Shoshone | 16. Alberta Garrett, Tubatulabal |
| | 17. Ron Goode, North Fork Mono Tribe |

18. Kamyar Guivetchi, DWR
19. William Jarnaghan, Hoopa Valley Tribe
20. Betsy Johnson, Tubatulabal
21. Daniel Jordan, Hoopa Tribe
25. Wilfred J. Nabahe, Lone Pine Paiute Shoshone Reservation
26. Cynthia Naha, Lone Pine Paiute Shoshone Reservation
27. Samantha C. Riding-Red-Horse, Tubatulabal
28. Jim Redmoon, Dumna Tribal Council
29. Robert Robinson, Kern Valley Indian Community
30. DeeDee Scott, Native American Student Association
31. Sydney Scott, Tubatulabal
22. Karen Larsen, Paiute
23. Stephanie Loper
24. Donna Miranda-Begay, Tubatulabals of Kern Valley
32. Alison Sheehey, Audubon Kern River Preserve
33. Linda Silvas, Chumash Native Nation
34. Tina Silvas, Chumash Native Nation
35. Ben Smitz, Dumna
36. Anthony Stone, Tubatulabal
37. Armen Stone, Paiute/Shoshone
38. Josephine Stone, Paiute/Shoshone
39. Edna L. Stone, Shoshone/Tubatulabal
40. Victoria Tanner, Tarahumara/Tribal TANF
41. Ron Wermuth, Kern Valley Indian Community
42. Bryan Williams, Assembly Member Jean Fuller

(7) Mind Map of Tribal Water Issues in the Region

See next page.

Issues Identified at the California Water Plan Update 2009 Greater Kern Regional Tribal Water Plenary Meeting, March 4, 2009

